

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

IN RE MERCK & CO., INC., SECURITIES,  
DERIVATIVE & "ERISA" LITIGATION

MDL NO. 1658 (SRC)

THIS DOCUMENT RELATES TO:  
THE CONSOLIDATED SECURITIES ACTION

CASE NO. 2:05-CV-01151-SRC-MAS  
CASE NO. 2:05-CV-02367-SRC-MAS

**STIPULATION AND ~~PROPOSED~~ ORDER**

**WHEREAS**, *In re Merck & Co., Inc., Securities, Derivative & "ERISA" Litigation*, MDL No. 1658 (the "MDL"), is pending before this Court;

**WHEREAS**, by Order dated June 3, 2010, this Court approved the following schedule for briefing on Defendants' motion(s) to dismiss Plaintiffs' Consolidated Securities Action filed their Corrected Consolidated Fifth Amended Class Action Complaint (the "Fifth Amended Complaint") (the "Briefing Order"):

1. Defendants shall serve and file their respective motions to dismiss the Fifth Amended Complaint by June 15, 2010, and the briefs in support of Defendants' motions to dismiss each shall not exceed 60 pages;
2. Plaintiffs shall serve and file their opposition(s) to any motion(s) to dismiss the Fifth Amended Complaint by August 3, 2010, and the briefs in support of Plaintiffs' opposition each shall not exceed 60 pages;
3. Defendants shall serve and file their respective reply briefs in further support of the motions to dismiss the Fifth Amended Complaint by September 15, 2010, and the reply briefs each shall not exceed 30 pages;

**WHEREAS**, on June 17, 2010, upon stipulation of the parties, this Court Ordered that the Briefing Schedule be amended as follows:

1. Defendants shall serve and file their respective motions to dismiss the Fifth Amended Complaint by June 18, 2010,

2. Plaintiffs shall serve and file their opposition(s) to any motion(s) to dismiss the Fifth Amended Complaint by August 6, 2010, and

3. Defendants shall serve and file their respective reply briefs in further support of the motions to dismiss the Fifth Amended Complaint by September 17, 2010;

**WHEREAS**, on June 18, 2010, all Defendants, other than defendant Edward Scolnick, filed a memorandum in support of their motion to dismiss the Fifth Amended Complaint of 60 pages and defendant Scolnick filed a memorandum in support of his motion to dismiss the Fifth Amended Complaint of 44 pages;

**WHEREAS**, the parties have met and conferred and agreed to the following amendment to the Briefing Order,

**IT IS HEREBY STIPULATED AND AGREED** by and between the parties, through their undersigned counsel, **AND SO ORDERED**, as follows:

1. Nothing in this Stipulation and Order shall, or shall be asserted by any party to, waive, prejudice or otherwise affect any position or argument of any party asserted in support of or in opposition to Defendants' responses to the Fifth Amended Complaint;

2. Plaintiffs may file a single, unified memorandum in opposition to the motions to dismiss the Fifth Amended Complaint filed by all Defendants not to exceed 120 pages;

3. All Defendants, other than defendant Scolnick, may file a reply memorandum in further support of their motion to dismiss the Fifth Amended Complaint not to exceed 45 pages; and

4. Defendant Scolnick may file a reply memorandum in further support of his motion to dismiss the Fifth Amended Complaint not to exceed 35 pages.

DATED: August 2, 2010

STIPULATED AND AGREED

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DATED: August 2, 2010

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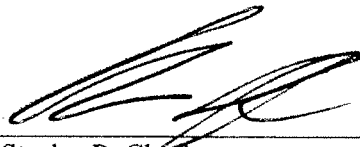
DATED: August 2, 2010

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SO ORDERED: 8/3, 2010

  
\_\_\_\_\_  
Hon. Stanley R. Chesler  
United States District Judge